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N.J. BOARD OF DENTISTRY
ON July 20, 2005 MJD

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF

JILL ZALESKI, D. M.D.
License # DI 16711

LICENSED TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

ORDER MODIFYING
RESTRICTIONS
ON LICENSE

CERTIFIED TRUE COPY

This matter was initially opened to the State Board of Dentistry upon receipt of information that Jill A. Zaleski, D.M.D. ("respondent"), had personally used prescription drugs for a non-medical or non-dental purpose and had prescribed controlled dangerous substances to her spouse for a non-dental purpose. Following an in-patient assessment and evaluation, Dr. Zaleski enrolled in the Well Being Program sponsored by the New Jersey Dental Association. In February 2004, Dr. Zaleski voluntarily agreed to cease practicing dentistry for a period of not less than 90 days and to comply with the requirements of the Well Being Program, including urine monitoring, counseling, and attendance at AA/NA meetings. Following her appearance on April 21, 2004, the Board, by order dated May 19, 2004, permitted her to return to practice with restrictions.

On April 25, 2005, Dr. Zaleski, through her counsel, John Paul Dizzia, Esq., sought modification or removal of restrictions placed by that order. In the interim, the Board

received information alleging that Dr. Zaleski had engaged in the practice of dentistry during the period when her license was surrendered. The Board received an investigative report which reflected that respondent had engaged in the practice of dentistry between the date of her appearance at the investigative inquiry on April 21, 2004 and May 19, 2004, the date her license was reinstated.

On May 18, 2005, Dr. Zaleski appeared before the Board with Mr. Dizzia. At that time, the Board reviewed the investigative report relating to the allegations of unlicensed practice, two reports from Donna Mackuse, D.O., respondent's treating psychiatrist, and a report from William Keene, D.D.S., M.A., Executive Director of the New Jersey Dental Association Well Being Program. The Board considered Dr. Zaleski's testimony concerning her compliance with the Board's order, in particular her decision not to employ a dental auxiliary in her practice but rather to have her father, a licensee of the Board, serve as a monitor. In addition, the Board considered respondent's testimony that she was under the impression that she was eligible to return to work following her appearance in April 2004. It further considered counsel's legal arguments seeking to have respondent's license restored nunc pro tunc to April 21, 2004 in order to avoid any question or consequences regarding her practice during the period her license was surrendered.

Having fully considered the materials presented, respondent's testimony and arguments of counsel, the Board has determined to modify some of the restrictions contained in the Board's order of May 19, 2004. The Board finds that Dr. Zaleski has made some progress in her recovery but that continuation of some restrictions and monitoring is appropriate to ensure her continued recovery and to protect patient safety. Those restrictions include continued

participation with the Well Being Program and compliance with its recommendations; attendance at AA/NA meetings; urine monitoring; use of a practice monitor (a licensed dental auxiliary); and, with the reintroduction of her CDS privileges, use of triplicate prescription blanks. The Board's determination that Dr. Zaleski practice with a licensed hygienist or registered dental assistant reflects its previous judgment that such assistance remains an important safeguard in respondent's practice. Dr. Zaleski herself acknowledged the Board's concerns in her testimony before the Board on May 18, 2005: "They [the Board members] felt to work by myself was extremely stressful and they felt I could use some help in the office plus have someone to ask questions in case they thought there might be relapse. someone who is familiar with my situation." Respondent shall retain the services of such a dental auxiliary in her practice, shall notify the Board of the auxiliary's name and address and shall provide the auxiliary with a copy of this order. Respondent shall cause the auxiliary to acknowledge that the auxiliary shall report any sign of relapse to the Board within 24 hours of the conduct giving rise to the suspected relapse. While respondent may continue to have her father, Dr. Stanley Zaleski, present in the office, his presence in the office will not excuse respondent from compliance with the terms of this order that an auxiliary be present and assisting her in her treatment of patients.

The Board declines to reinstate Dr. Zaleski's license nunc pro tunc to April 21, 2004. There was no indication given by the Board during her appearance on that date that she was permitted to return to practice. The Board is not persuaded that her belief that she was permitted to return to practice on that date was reasonable. The information presented to the Board shows that respondent practiced prior to reinstatement of her license on May 19, 2004 and

indeed suggests that she may have practiced before the April 21, 2004 date. While the Board will not continue an investigation into these latter allegations nor impose a sanction for respondent's practice prior to her reinstatement, it will not enter an order reinstating her license as of April 21, 2004.

Finally, the Board will remove the restriction on the number of hours that respondent is permitted to practice. It expects that respondent's continued participation with the Well Being Program will provide the monitoring necessary to ensure that increased hours do not adversely affect her recovery. As noted above, respondent shall comply with the recommendations of the Well Being Program which may, if deemed necessary and in the discretion of the program, include reducing the hours of practice, requiring counseling, and/or increasing urine monitoring or attendance at AA/NA meetings from the requirements of this order. To the extent that the Well Being Program recommends a diminution of restrictions, however, respondent shall make application to the Board for such a modification.

The Board's order permitting removal, reduction or continuation of the restrictions contained in its order of May 19, 2004 is based on its belief that respondent continues to make progress in her recovery. Respondent's continued practice is conditioned on strict compliance with the terms of this order. Violation of the terms of this order or any indication of improper use of controlled dangerous substances (whether designated a "slip" or a relapse) will result in immediate action by the Board on short notice to temporarily suspend her license on an emergent basis.

THEREFORE, IT IS ON THIS 20TH DAY OF JULY, 2005.

ORDERED:

1. Jill A. Zaleski, D.M.D., may practice dentistry in this State consistent with the terms of this order. This order supercedes the Board's prior order permitting Dr. Zaleski's return to practice.

2. Dr. Zaleski shall abstain from the use or ingestion of any and all intoxicating substances, including but not limited to alcohol and controlled dangerous substances except as outlined in this order.

3. Until further order of the Board, Dr. Zaleski shall be permitted to prescribe controlled dangerous substances for patients as required in connection with dental treatment or administer medication to patients in the course of dental treatment, in accordance with the following terms and conditions:

- a) Respondent shall use sequentially numbered, triplicate prescription pads for all prescriptions written.
- b) Respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy to the Board, to the attention of: Joanne Boyer, Acting Executive Director, on a monthly basis no later than the fifth day of each month for all prescriptions written in the previous month. The first submission shall be due no later than August 5, 2005, for all prescriptions written in July 2005 starting on the entry date of this Order.
- c) Respondent shall be required to account for each consecutively numbered prescription, regardless of whether the particular prescription was voided or not used for any purpose whatsoever.

4. At all times when she is engaged in the practice of clinical dentistry, Dr. Zaleski shall have at her expense a licensed or registered dental auxiliary present in the office to assist her in her practice (four handed dentistry).

(a) The dental auxiliary shall be either a registered dental hygienist or a registered dental assistant holding a valid license issued by the State Board of Dentistry.

(b) The auxiliary shall agree to report to the Board in writing within 24 hours any conduct or observation which indicates that Dr. Zaleski may be impaired. Dr. Zaleski shall provide a copy of this order to the dental auxiliary and have her or him acknowledge receipt of the order and agreement to its terms. Proof of the auxiliary's agreement to the terms of the order shall be provided to the Board.

(c) Dr. Zaleski shall provide a copy of this and any further orders of the Board to the auxiliary and shall ensure that the auxiliary shall be present in the office and shall initial the patient's chart indicating her presence at the time treatment was rendered by Dr. Zaleski.

5.(a.) Dr. Zaleski shall submit to random urine sampling a minimum of once per month at a laboratory facility approved by the Board. The urine testing requirement shall continue until further order of the Board expressly reducing or discontinuing testing. Dr. Zaleski shall be provided with specific directions for the protocol of the testing procedure and the location of the laboratory facility by the Executive Director of the Board. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designated by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody

protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b.) All test results shall be provided to Joanne Boyer, Acting Executive Director of the Board, or her designee in the event she is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c.) Any failure by Dr. Zaleski to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event Dr. Zaleski is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Executive Director or her designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, Dr. Zaleski must provide the Board with written substantiation of her inability to appear for a test within two (2) days, e.g., a physician's report attesting that he was so ill that she was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of Dr. Zaleski that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d.) In the event Dr. Zaleski will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(e.) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall be deemed a confirmed positive urine test.

(f.) Dr. Zaleski shall familiarize herself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

6. Dr. Zaleski shall continue her participation in the New Jersey Dental Association's Well Being Program and shall have at a minimum monthly face-to-face contact with representatives from that program. Dr. Zaleski shall comply with any recommendations of that program, including a therapeutic regimen for treatment or counseling. Dr. Zaleski shall be responsible for ensuring that any treating psychologist and any other person(s) providing therapy for her addiction provide the Board with quarterly reports regarding her progress in counseling.

7. Dr. Zaleski shall attend support groups, including NA or AA not less than three times per week. Dr. Zaleski shall provide evidence of attendance at such groups directly to the Board. If Dr. Zaleski discontinues attendance at any of the support groups without obtaining approval of the Board, she shall be deemed in violation of this Order.

8. Dr. Zaleski shall abstain from the use of alcohol and controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in her own treatment. In addition, Dr. Zaleski shall advise any and all treating physicians and/or dentists of her history of substance abuse. Dr. Zaleski shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to

provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

9. Dr. Zaleski shall provide any and all releases to any and all parties who are participating in the monitoring, treating or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. With regard to any requirement for submission of the quarterly reports to the Board, the beginning of the first quarter is deemed to have commenced September 1, 2005.

10. Respondent may seek modification of the terms of this order not sooner than six months from its entry. Prior to any modification or removal of restrictions set forth in this order, respondent shall:

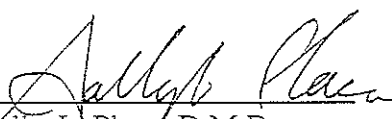
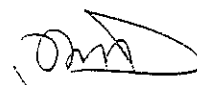
a. Appear before the Board or a committee of the Board to discuss her continued recovery and to demonstrate to the satisfaction of the Board that she is not then suffering from any impairment or limitation resulting from the use of any substance, whether legal or illegal, which could affect her practice:

b. Prior to her appearance, respondent shall provide the Board with reports from each and every mental health professional (including but not limited to: psychologists, counselors, therapists, psychiatrists) who have participated in respondent's care and/or treatment during the period of time from entry of this order to her appearance:

c. Prior to her appearance, provide the Board with a report from the Well Being Program detailing the nature and extent of her involvement with that entity and its recommendations concerning the modification and removal of restrictions.

12. Dr. Zaleski shall be subject to an order of suspension of her license on short notice upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent is not capable of carrying out the functions of a licensee consistent with the public's health, safety or welfare or that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of drug use. A hearing on that application may be before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be immediately effective and subject to ratification of the full Board at its next scheduled meeting.

New Jersey Board of Dentistry

By:  
Sally-Jo Placa, D.M.D.
President